

## PROCLAMATION

### Declaration of a Local Emergency in the Village of Brewster

**WHEREAS**, on January 30, 2020, the World Health Organization [WHO] designated the novel coronavirus, COVID-19, outbreak as a Public Health Emergency of International Concern, and

**WHEREAS**, on January 31, 2020, United States Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the entire United States to aid the nation's healthcare community in responding to COVID-19, and

**WHEREAS**, on March 11, 2020 the WHO declared COVID-19 a pandemic, pointing to the over 118,000 cases of the coronavirus illness in over 110 countries and territories around the world and the sustained risk of further global spread, and

**WHEREAS**, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and the County of Putnam, including the Village of Brewster, and

**WHEREAS**, the Village of Brewster is addressing the threat that COVID-19 poses to the health and welfare of its residents, and

**WHEREAS**, businesses, including restaurants have remained closed to in-person dining due to the Covid-19 pandemic, and have recently been permitted to open to outdoor dining only, pursuant to Executive Order of the Governor of New York State, and

**WHEREAS**, the Village Code prohibits outdoor dining in certain zoning districts, and permits outdoor dining in certain districts by special exception use permit, which is unduly restrictive to restaurants at this time due to the requirement that in-person dining may only occur outdoors, and

**WHEREAS**, it is the intention of the Village to allow restaurants, under certain parameters and restrictions, to operate an outdoor dining area, in a manner that is in compliance with all Federal, State and County regulations and restrictions, and

**WHEREAS**, the Board of Trustees is in the process of adopting legislation to allow outdoor dining on a temporary basis due the current COVID-19 restrictions, and in the interim it is the intention of this declaration to allow outdoor dining in accordance with the criteria set forth herein below, in order to allow restaurants to operate an outdoor dining area, and

**WHEREAS**, this is a temporary measure due to the COVID-19 pandemic, and is not intended to set a precedent for permanent outdoor dining areas that are not in conformance with the Village Code;

**NOW, THEREFORE IT IS HEREBY ORDERED THAT I**, James J. Schoenig, Mayor of the Village of Brewster, by virtue of the authority vested in me by and the Laws of the State of New York, hereby find, pursuant to Section 24 of Article 2-B of the Executive Law, that a public health emergency is impending in the Village of Brewster, and I do hereby issue this declaration of a local state of emergency for the Village of Brewster. This Emergency Declaration shall be in effect for five (5) days until June 30, 2020, or sooner if rescinded; and

**IT IS FURTHER ORDERED THAT**, pursuant to Section 24 of Article 2-B of the Executive Law, I direct and authorize all necessary Village agencies and departments to take appropriate action to prepare for, respond to and recover from this emergency, to protect Village of Brewster property, and to provide such other assistance as is necessary to protect public health, welfare, and safety, and

**IT IS FURTHER ORDERED THAT**, pursuant to Section 24 of Article 2-B of the Executive Law, Section 263-20(1)(5) of the Village of Brewster Code is hereby suspended through to December 31, 2020, in order to allow restaurants the ability to serve patrons in all zoning districts without the requirement to obtain a special exception use permit, and by obtaining a temporary outdoor dining permit from the Building Department of the Village of Brewster, to operate in accordance with the criteria set forth below, and in accordance with the restrictions and conditions required by the Governor's Executive Orders, by allowing outdoor dining to comply with maximum capacity and social distance requirements:

A. Temporary Outdoor Dining Permit. There is hereby established a temporary permit for outdoor dining to be administered by the Village of Brewster Building Department, in order to allow existing restaurants that currently have indoor seating areas, to establish a temporary outdoor dining area or to expand an existing outdoor dining area, pursuant to the criteria and regulations set forth herein.

B. Regulations.

- (1) Application and Permit. An applicant shall submit to the Building Department an application for a temporary outdoor dining permit, in a form required by the Building Department, which shall include sufficient documentation to show the outdoor dining area location; flow of pedestrian and vehicular traffic; buffer areas; appropriate safety measures to protect the patrons; compliance with any and all State, County and local regulations including the criteria set forth herein; insurance certificates; and consent of the property owner if the applicant does not own the property.
- (2) Term. The temporary outdoor dining permit shall expire on December 31, 2020 or at such time as New York State allows restaurants to provide in-person dining inside a restaurant to its full capacity, whichever occurs earlier. The restaurant shall also be subject to inspections by the Building Department at any time, and refusal to cooperate with the Building Department or failure to comply with any criteria set forth herein, or the existence of any conditions that pose a risk to the health, safety and welfare of the patrons or community, shall result in a revocation of the temporary outdoor dining permit. Such revocation may be appealed to the Board of Trustees, and any such appeal must be submitted to the Board of Trustees within thirty (30) days of any such revocation. Upon termination of the outdoor dining permit, whether by revocation or by operation of law pursuant to the terms set forth herein, the outdoor dining area must be restored to the condition of the area that existed prior to the establishment of the outdoor dining area.

- (3) Location. Outdoor dining areas that are operating pursuant to a temporary outdoor dining permit may be located in a parking area, sidewalk, deck, patio, terrace, lawn area, garden area, or any other area deemed appropriate by the Building Department in accordance with the criteria set forth herein, as long as such area is within reasonable proximity to the restaurant to allow for safe and efficient food service to patrons.
- (4) Insurance requirements and indemnification. Every establishment that is issued a temporary outdoor dining permit shall maintain liability insurance coverage issued by an insurance company duly authorized to do business in the State of New York, naming the Village of Brewster as an additional insured, and the applicant agrees to hold harmless the Village of Brewster from and against any and all liability associated with the operation of the outdoor dining area, including against any claim, suit, judgment, injury, damage caused or alleged to be caused by the establishment or operation of the outdoor dining area, in the following minimum amounts:
  - i. For bodily injury, including death, in the minimum amount of \$100,000.00 for an one person and the minimum amount of \$300,000.00 for any one accident; and
  - ii. For property damage in the minimum amount of \$25,000.00.
  - iii. The temporary permit shall be revoked immediately upon a permittee's failure to continue and maintain such insurance coverage. The Village of Brewster shall be named as a certificate holder in order to receive any notice of cancellation of such policies.
- (5) Regulations.
  - i. The outdoor dining area may not unnecessarily impede the safe and convenient flow of pedestrian traffic or vehicular traffic.
  - ii. The outdoor dining area may be located on public or private property.

- iii. In approving an application for a temporary outdoor dining permit, the Building Department may attach conditions to ensure public safety and convenience and to reduce potential negative impacts from the dining area.
- iv. Any such outdoor restaurant seating that is approved pursuant to this section shall remain in compliance with all Putnam County Department of Health and New York State orders, codes, rules, regulations and guidelines.
- v. The seating capacity of the outdoor dining area shall not exceed the maximum seating capacity of the interior of the restaurant as evidenced by a current certificate of occupancy and/or Putnam County Department of Health approval. Once indoor seating is allowed by New York State, then the total interior and exterior seating areas combined shall not exceed the total seating capacity of the interior of the restaurant as was allowed prior to the COVID-19 pandemic. Once New York State allows one hundred percent of indoor seating to be used, then the temporary outdoor seating area shall no longer be permitted and any permit for such seating shall expire.
- vi. Entryways, emergency exits and fire hydrants shall not be obstructed.
- vii. No outdoor dining shall be permitted after 9:00 p.m. on Sunday through Thursday and after 10:00 p.m. on Friday and Saturday.
- viii. No exterior lighting which unreasonably illuminates beyond the boundaries of the outdoor dining area shall be permitted.

- ix. If the outdoor dining area occupies a sidewalk, parking area or other space which is not owned by the applicant, the applicant shall provide a written, signed and notarized consent of the owner of the property or properties upon which an outdoor dining area is proposed to be operated. If such owner of the area is different from the applicant, prior to the issuance of the permit, there shall be an agreement executed by the owner and the applicant to defend and hold harmless the Village of Brewster, its officers and employees, against any loss, liability or damages sustained by any person or to any property as a result of the operation of the outdoor dining area, together with a certificate of insurance issued to both the owner and the tenant as insureds and naming the Village of Brewster and its officers and employees as additional insured, in the minimum amount of One Million (\$1,000,000.00) single-limit general liability coverage in a form to be approved by the Village of Brewster.
- x. No permanent structures may be constructed or installed in an outdoor dining area.
- xi. The outdoor dining area must be clearly marked and the boundaries thereof delineated with an appropriate boundary as determined by the Building Department, such as ropes, railings, planters, or similar enclosures.
- xii. Any pedestrian walkway used for outdoor dining shall leave room for a continuous public pedestrian walkway at least five feet in width.
- xiii. The outdoor dining area must be a safe distance from vehicular traffic and parked vehicles.

G I V E N under my hand and the Privy Seal of the Village of Brewster this 25 day of June in the year two thousand twenty.

BY THE MAYOR

  
JAMES J. SCHOENIG